

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

PERSONAL AUDIO, LLC,

Plaintiff,

v.

ACER AMERICA CORP., APOLLO
BRANDS, ASUSTek COMPUTER, INC.,
ASUS COMPUTER INTERNATIONAL,
BARNES & NOBLE, INC.,
FUJITSU AMERICA, INC.,
LENOVO (UNITED STATES) INC.,
TOSHIBA CORPORATION,
TOSHIBA AMERICA INFORMATION
SYSTEMS, INC., and ZTE (USA) INC.

Defendants.

CASE NO. 1:14-CV-8 (RC)

JURY TRIAL DEMANDED

ACER AMERICA CORP.'S ANSWER TO FIRST AMENDED COMPLAINT

Defendant Acer America Corp. (“Acer”) hereby responds to the First Amended Complaint (“Complaint”) of Plaintiff Personal Audio, LLC (“PA”) in the correspondingly numbered paragraphs. Unless expressly admitted, each and every allegation of the Complaint, including any characterizations or allegations contained or implied in any headings or non-numbered paragraphs, are denied.

1. Acer admits that the Complaint alleges patent infringement. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants. Acer denies infringement, the legal sufficiency of PA’s complaint, and

that PA has any viable claim for relief. Except as expressly admitted, Acer denies each and every allegation of paragraph 1.

2. Acer admits that, on its face, the United States Patent No. 6,199,076, abbreviated as the '076 patent, bears the title, "Audio Program Player Including A Dynamic Program Selection Controller," and appears to have issued on March 6, 2001. Acer lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph

2. Except as expressly admitted, Acer denies each and every allegation of paragraph 2.

3. Acer admits that, on its face, the United States Patent No. 7,509,178, abbreviated as the '178 patent, bears the title, "Audio Program Distribution and Playback System." Acer lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 3. Except as expressly admitted, Acer denies each and every allegation of paragraph 3.

4. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants. Acer admits that PA purports to seek injunctive relief, monetary damages, and prejudgment interest. Acer denies that PA is entitled to injunctive relief, monetary damages, or prejudgment interest. Except as expressly admitted, Acer denies each and every allegation of paragraph 4.

5. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5 and on that basis denies each and every allegation of paragraph 5.

6. Acer admits that Acer America Corp. is a California corporation and that its headquarters are located at 333 W. San Carlos Street, Suite 1500, San Jose, California 95110. Acer further admits that Acer America Corp.'s registered agent for service of process is CT Corporation System and that, on information and belief, one of the offices of CT Corporation

System is located at 818 W. Seventh Street, Los Angeles, California 90017. Except as expressly admitted, Acer denies each and every allegation of paragraph 6.

7. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 and on that basis denies each and every allegation of paragraph 7.

8. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8 and on that basis denies each and every allegation of paragraph 8.

9. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9 and on that basis denies each and every allegation of paragraph 9.

10. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10 and on that basis denies each and every allegation of paragraph 10.

11. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11 and on that basis denies each and every allegation of paragraph 1.

12. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12 and on that basis denies each and every allegation of paragraph 12.

13. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13 and on that basis denies each and every allegation of paragraph 13.

14. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14 and on that basis denies each and every allegation of paragraph 14.

15. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15 and on that basis denies each and every allegation of paragraph 15.

16. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16 and on that basis denies each and every allegation of paragraph 16.

17. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17 and on that basis denies each and every allegation of paragraph 17.

18. Acer admits that the Complaint alleges patent infringement and that this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a). Except as expressly admitted, Acer denies each and every allegation of paragraph 18.

19. Acer admits that it has sold Iconia W3, W5 and W7 tablets in Texas and this judicial district. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants. Acer denies that it has committed any act of infringement in this or any judicial district. Except as expressly admitted, Acer otherwise further denies each and every allegation of paragraph 19.

20. Acer admits that it does business in and has sold Iconia W3, W5 and W7 tablets in Texas and this judicial district. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants. Acer denies that it has committed any act of infringement in this or any judicial district. Except as expressly admitted, Acer otherwise further denies each and every allegation of paragraph 20.

21. Acer denies each and every allegation of paragraph 21.

22. On information and belief, Acer admits that this Court has presided over actions previously filed by PA involving the patents asserted in this action and that the Court has construed certain claim terms of those patents. Except as expressly admitted, Acer denies each and every allegation of paragraph 22.

23. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23 and on that basis denies each and every allegation of paragraph 23.

24. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 24 and on that basis denies each and every allegation of paragraph 24.

25. On information and belief, Acer admits the allegations of paragraph 25.

26. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 26 and on that basis denies each and every allegation of paragraph 26.

27. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 27 and on that basis denies each and every allegation of paragraph 27.

28. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 28 and on that basis denies each and every allegation of paragraph 28.

29. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 29 and on that basis denies each and every allegation of paragraph 29.

30. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30 and on that basis denies each and every allegation of paragraph 30.

31. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 31 and on that basis denies each and every allegation of paragraph 31.

32. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 32 and on that basis denies each and every allegation of paragraph 32.

33. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 33 and on that basis denies each and every allegation of paragraph 33.

34. Acer admits that, on its face, the United States Patent Application No. 08/724,813, abbreviated as the '813 application, appears to have been filed with the United States Patent and Trademark Office ("PTO") on October 2, 1996 and that James Logan, Daniel Goessling, and Charles Call were listed as the alleged named inventors. Except as expressly admitted, Acer denies each and every allegation of paragraph 34.

35. Acer admits that, on its face, the '076 patent bears the title, "Audio Program Player Including a Dynamic Program Selection Controller," and appears to have issued on March 6, 2001.

36. Acer admits that, on its face, the United States Patent Application No. 09/782,546, abbreviated as the '546 application, appears to have been filed with the PTO on February 13, 2001. Acer lacks knowledge or information sufficient to form a belief as to the

truth of the remaining allegations of paragraph 36. Except as expressly admitted, Acer denies each and every allegation of paragraph 36.

37. Acer admits that, on its face, the '178 patent bears the title, "Audio Program Distribution and Playback System," and appears to have issued on March 24, 2009.

38. Acer admits that the '076 and '178 patents, which PA refers to collectively as the asserted patents, purport to share a common specification. Acer lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 38. Except as expressly admitted, Acer denies each and every allegation of paragraph 38.

39. The allegations of paragraph 39 are too vague and ambiguous to be able to reasonably respond. As currently alleged, Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 39 and on that basis denies each and every allegation of paragraph 39.

40. The allegations of paragraph 40 are too vague and ambiguous to be able to reasonably respond. As currently alleged, Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 40 and on that basis denies each and every allegation of paragraph 40.

41. The allegations of paragraph 41 are too vague and ambiguous to be able to reasonably respond. As currently alleged, Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 41 and on that basis denies each and every allegation of paragraph 41.

42. The allegations of paragraph 42 are too vague and ambiguous to be able to reasonably respond. As currently alleged, Acer lacks knowledge or information sufficient to

form a belief as to the truth of the allegations of paragraph 42 and on that basis denies each and every allegation of paragraph 42.

43. The allegations of paragraph 43 are too vague and ambiguous to be able to reasonably respond. As currently alleged, Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 43 and on that basis denies each and every allegation of paragraph 43.

44. The allegations of paragraph 44 are too vague and ambiguous to be able to reasonably respond. As currently alleged, Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 44 and on that basis denies each and every allegation of paragraph 44.

45. The allegations of paragraph 45 are too vague and ambiguous to be able to reasonably respond. As currently alleged, Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 45 and on that basis denies each and every allegation of paragraph 45.

46. The allegations of paragraph 46 are too vague and ambiguous to be able to reasonably respond. As currently alleged, Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 46 and on that basis denies each and every allegation of paragraph 46.

47. Acer denies that PA is entitled to any recovery. Acer lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 47. Except as expressly admitted, Acer denies each and every allegation of paragraph 47.

48. Acer admits on information and belief that on June 25, 2009, PA filed a complaint against Apple Inc. in the Eastern District of Texas alleging infringement of the '076 patent. Acer

lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 48. Except as expressly admitted, Acer denies each and every allegation of paragraph 48.

49. Acer admits on information and belief that the Honorable Ron Clark presided over the jury trial in *Personal Audio, LLC v. Apple Inc.* in 2011.

50. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 50 and on that basis denies each and every allegation of paragraph 50.

51. Acer admits on information and belief that the jury found infringement on the part of Apple and awarded damages to PA. Acer lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 51. Except as expressly admitted, Acer denies each and every allegation of paragraph 51.

52. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 52 and on that basis denies each and every allegation of paragraph 52.

53. Acer admits on information and belief that the Court entered final judgment on August 30, 2011. Acer lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 53. Except as expressly admitted, Acer denies each and every allegation of paragraph 53.

54. Acer admits on information and belief that on January 14, 2010, Apple submitted a request for *inter partes* reexamination of the '178 patent which the PTO granted (Control No. 95/001,295). Acer lacks knowledge or information sufficient to form a belief as to the truth of

the remaining allegations of paragraph 54. Except as expressly admitted, Acer denies each and every allegation of paragraph 54.

55. Acer admits on information and belief that on March 17, 2011, Apple submitted a request for *ex parte* reexamination of the '076 patent which the PTO granted (Control No. 90/011,579) and that the PTO issued a Certificate of Reexamination for the '076 patent on November 30, 2012. Acer lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 55. Except as expressly admitted, Acer denies each and every allegation of paragraph 55.

56. Acer restates and incorporates by reference each and every response to the allegations set forth above as though fully repeated herein.

57. Acer admits that it sells the Iconia tablets including W5 and W7 models. Acer lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 57. Except as expressly admitted, Acer denies each and every allegation of paragraph 57.

58. Acer denies each and every allegation of paragraph 58.

59. Acer admits that Google Play Music is one of the applications available on certain models of Iconia tablets. Acer lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 59. Except as expressly admitted, Acer denies each and every allegation of paragraph 59.

60. The allegations of paragraph 60 are too vague and ambiguous to be able to reasonably respond. As currently alleged, Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 60 and on that basis denies each and every allegation of paragraph 60.

61. Acer admits that it sells the Iconia W3 tablet and that Microsoft Music App is one of the applications available on the Iconia W3 tablet. The remaining allegations of paragraph 61 are too vague and ambiguous to be able to reasonably respond. As currently alleged, Acer lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 61. Except as expressly admitted, Acer denies each and every allegation of paragraph 61.

62. Acer denies each and every allegation of paragraph 62.

63. The allegations of paragraph 63 are too vague and ambiguous to be able to reasonably respond. As currently alleged, Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 63 and on that basis denies each and every allegation of paragraph 63.

64. Acer admits that by December 27, 2012 it received a letter from PA regarding possible licensing discussions. Acer denies that this letter contained an affirmative communication of a specific charge of infringement by a specific accused product or device. Except as expressly admitted, Acer denies each and every allegation of paragraph 64.

65. Acer denies each and every allegation of paragraph 65.

66. Acer restates and incorporates by reference each and every response to the allegations set forth above as though fully repeated herein.

67. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 67 and on that basis denies each and every allegation of paragraph 67.

68. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 68 and on that basis denies each and every allegation of paragraph 68.

69. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 69 and on that basis denies each and every allegation of paragraph 69.

70. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 70 and on that basis denies each and every allegation of paragraph 70.

71. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 71 and on that basis denies each and every allegation of paragraph 71.

72. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 72 and on that basis denies each and every allegation of paragraph 72.

73. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 73 and on that basis denies each and every allegation of paragraph 73.

74. Acer restates and incorporates by reference each and every response to the allegations set forth above as though fully repeated herein.

75. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 75 and on that basis denies each and every allegation of paragraph 75.

76. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 76 and on that basis denies each and every allegation of paragraph 76.

77. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 77 and on that basis denies each and every allegation of paragraph 77.

78. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 78 and on that basis denies each and every allegation of paragraph 78.

79. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 79 and on that basis denies each and every allegation of paragraph 79.

80. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 80 and on that basis denies each and every allegation of paragraph 80.

81. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 81 and on that basis denies each and every allegation of paragraph 81.

82. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 82 and on that basis denies each and every allegation of paragraph 82.

83. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 83 and on that basis denies each and every allegation of paragraph 83.

84. Acer restates and incorporates by reference each and every response to the allegations set forth above as though fully repeated herein.

85. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 85 and on that basis denies each and every allegation of paragraph 85.

86. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 86 and on that basis denies each and every allegation of paragraph 86.

87. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 87 and on that basis denies each and every allegation of paragraph 87.

88. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 88 and on that basis denies each and every allegation of paragraph 88.

89. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 89 and on that basis denies each and every allegation of paragraph 89.

90. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 90 and on that basis denies each and every allegation of paragraph 90.

91. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 91 and on that basis denies each and every allegation of paragraph 91.

92. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 92 and on that basis denies each and every allegation of paragraph 92.

93. Acer restates and incorporates by reference each and every response to the allegations set forth above as though fully repeated herein.

94. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 94 and on that basis denies each and every allegation of paragraph 94.

95. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 95 and on that basis denies each and every allegation of paragraph 95.

96. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 96 and on that basis denies each and every allegation of paragraph 96.

97. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 97 and on that basis denies each and every allegation of paragraph 97.

98. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 98 and on that basis denies each and every allegation of paragraph 98.

99. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 99 and on that basis denies each and every allegation of paragraph 99.

100. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 100 and on that basis denies each and every allegation of paragraph 100.

101. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 101 and on that basis denies each and every allegation of paragraph 101.

102. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 102 and on that basis denies each and every allegation of paragraph 102.

103. Acer restates and incorporates by reference each and every response to the allegations set forth above as though fully repeated herein.

104. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 104 and on that basis denies each and every allegation of paragraph 104.

105. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 105 and on that basis denies each and every allegation of paragraph 105.

106. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 106 and on that basis denies each and every allegation of paragraph 106.

107. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 107 and on that basis denies each and every allegation of paragraph 107.

108. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 108 and on that basis denies each and every allegation of paragraph 108.

109. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 109 and on that basis denies each and every allegation of paragraph 109.

110. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 110 and on that basis denies each and every allegation of paragraph 110.

111. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 111 and on that basis denies each and every allegation of paragraph 111.

112. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 112 and on that basis denies each and every allegation of paragraph 112.

113. Acer restates and incorporates by reference each and every response to the allegations set forth above as though fully repeated herein.

114. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 114 and on that basis denies each and every allegation of paragraph 114.

115. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 115 and on that basis denies each and every allegation of paragraph 115.

116. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 116 and on that basis denies each and every allegation of paragraph 116.

117. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 117 and on that basis denies each and every allegation of paragraph 117.

118. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 118 and on that basis denies each and every allegation of paragraph 118.

119. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 119 and on that basis denies each and every allegation of paragraph 119.

120. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 120 and on that basis denies each and every allegation of paragraph 120.

121. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 121 and on that basis denies each and every allegation of paragraph 121.

122. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 122 and on that basis denies each and every allegation of paragraph 122.

123. Acer restates and incorporates by reference each and every response to the allegations set forth above as though fully repeated herein.

124. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 124 and on that basis denies each and every allegation of paragraph 124.

125. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 125 and on that basis denies each and every allegation of paragraph 125.

126. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 126 and on that basis denies each and every allegation of paragraph 126.

127. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 127 and on that basis denies each and every allegation of paragraph 127.

128. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 128 and on that basis denies each and every allegation of paragraph 128.

129. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 129 and on that basis denies each and every allegation of paragraph 129.

130. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 130 and on that basis denies each and every allegation of paragraph 130.

131. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 131 and on that basis denies each and every allegation of paragraph 131.

132. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 132 and on that basis denies each and every allegation of paragraph 132.

133. Acer restates and incorporates by reference each and every response to the allegations set forth above as though fully repeated herein.

134. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 134 and on that basis denies each and every allegation of paragraph 134.

135. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 135 and on that basis denies each and every allegation of paragraph 135.

136. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 136 and on that basis denies each and every allegation of paragraph 136.

137. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 137 and on that basis denies each and every allegation of paragraph 137.

138. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 138 and on that basis denies each and every allegation of paragraph 138.

139. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 139 and on that basis denies each and every allegation of paragraph 139.

140. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 140 and on that basis denies each and every allegation of paragraph 140.

141. Acer lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 141 and on that basis denies each and every allegation of paragraph 141.

142. Acer restates and incorporates by reference each and every response to the allegations set forth above as though fully repeated herein.

143. Acer denies each and every allegation of paragraph 143. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

144. Acer denies each and every allegation of paragraph 144. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

145. Acer denies each and every allegation of paragraph 145. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

146. Acer denies each and every allegation of paragraph 146. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

147. Acer denies each and every allegation of paragraph 147. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

148. Acer denies each and every allegation of paragraph 148. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

149. Acer denies each and every allegation of paragraph 149. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

150. Acer restates and incorporates by reference each and every response to the allegations set forth above as though fully repeated herein.

151. Acer denies each and every allegation of paragraph 151. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

152. Acer denies each and every allegation of paragraph 152. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

153. Acer denies each and every allegation of paragraph 153. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

154. Acer denies each and every allegation of paragraph 154. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

155. Acer denies each and every allegation of paragraph 155. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

156. Acer denies each and every allegation of paragraph 156. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

157. Acer denies each and every allegation of paragraph 157. Acer lacks knowledge or information sufficient to form a belief about the truth of any allegations relating to other Defendants.

158. Acer admits that PA demands a jury on all triable issues. Acer denies that PA is entitled to judgment in its favor or any relief whatsoever, including any of the relief requested in paragraphs A-F in the Request for Relief in the Complaint.

AFFIRMATIVE DEFENSES

In addition to the defenses set forth herein, Acer expressly reserves the right to allege and assert any defenses or affirmative defenses under Rule 8 of the Federal Rules of Civil Procedure, the patent laws of the United States, and any other defense, at law or in equity, that may now exist or in the future become known or available based upon discovery and further investigation in this case. Acer also expressly incorporates by reference as though fully repeated herein each

and every defense pleaded by the other Defendants in this action in their respective Answers to the Complaint.

1. PA fails to state any claim against Acer upon which relief may be granted.
2. Acer does not and has not directly or indirectly infringed, literally or under the doctrine of equivalents, willfully or otherwise, any valid claim of the asserted patents.
3. PA is not entitled to injunctive relief because Acer has not infringed and is not infringing any valid claim of the asserted patents, and any purported injury to PA is not immediate or irreparable. To the extent PA proves that it would be entitled to any relief, it would have an adequate remedy at law. Moreover, the public interest and balance of hardships disfavors an injunction under the circumstances of this case.
4. PA has no basis to claim that this is an exceptional case to justify any award of attorney fees or costs against Acer pursuant to 35 U.S.C. § 285.
5. PA is estopped from construing any valid claim of any of the asserted patents to cover or include, either literally or by application of the doctrine of equivalents, any product or service manufactured, used, imported, sold, or offered by Acer because of the admissions and statements made to the United States Patent and Trademark Office during prosecution of the applications leading to the issuance of any of the asserted patents.
6. Each claim of the asserted patents is invalid and/or unenforceable for failing to comply with one or more of the requirements for patentability under the patent laws of the United States, including but not limited to 35 U.S.C. §§ 101, 102, 103, and/or 112.
7. PA is barred in whole or in part by operation of 35 U.S.C. §§ 286, 287, and/or 288.

8. To the extent PA purports to accuse any Acer product, PA's claims for contributory infringement are barred in whole or in part under 35 U.S.C. § 271(c) in view of the substantial non-infringing uses of such allegedly infringing product.

9. To the extent PA purports to accuse any Acer product, PA's claims for induced infringement are barred in whole or in part under 35 U.S.C. § 271(b).

10. To the extent PA purports to accuse any Acer product, PA's claims are barred in whole or in part under 35 U.S.C. § 271(f).

11. PA's Complaint is barred in whole or in part by waiver, equitable estoppel, implied license, and/or the doctrine of unclean hands.

12. PA's Complaint is barred in whole or in part by patent exhaustion.

PRAYER FOR RELIEF

WHEREFORE, Acer respectfully requests that the Court enter an Order and Judgment against Plaintiff Personal Audio, LLC:

- A. Dismissing with prejudice Plaintiff's Complaint against Acer;
- B. Denying any and all relief sought by Plaintiff;
- C. Declaring that Acer has not infringed and is not directly or indirectly infringing any asserted claim of the '076 and '178 patents;
- D. Declaring that the '076 and '178 patents are invalid and/or unenforceable;
- E. Declaring this case is exceptional under 35 U.S.C. § 285 and awarding to Acer its attorneys' fees and costs incurred in connection with this action; and
- F. Such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

Acer respectfully demands a trial by jury of any issues triable by right under Rule 38 of

the Federal Rules of Civil Procedure.

Dated: November 17, 2014

Respectfully submitted,

By /s/ James P. Gagen

J. Thad Heartfield (State Bar No. 09346800)
The Heartfield Law Firm
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CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2014, a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As of this date, all counsel of record have consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

By: James P. Gagen
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